

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Case Number: 04-10246-PBS

UNITED STATES OF AMERICA)
)
)
)
v.)
)
BRIAN TODD and)
SHAUN TODD)

MOTION IN LIMINE
(Alleged Admission of Shaun Todd)

NOW COMES the defendant in the above-entitled matter and hereby moves the Court for an order prohibiting the Government from introducing evidence relative to, or commenting about, alleged admissions of the defendant, Shaun Todd, to Taryn Tinkham.

In support of the within Motion, the defendant states as follows:

1. A Government witness, Taryn Tinkham, intends to testify that the defendant, Shaun Todd, told her that he was asked by his brother, the defendant Brian Todd, to drive him to a bank and wait for him. This witness will further testify that Shaun Todd stated he did, in fact, drive his brother Brian Todd to a bank, waited for him, and drove him away from the bank.
2. Admissions by a party are not hearsay. Fed. R. Evid., 801 (d)(2).
3. In Order to qualify as a non-hearsay “admission” the statement must be inculpatory in nature. Fed. R. Evid., 801 (d)(2). The defendant’s alleged statements that he gave his brother a ride to and from a bank do not tend to

incriminate him, without some evidence of a conspiracy. Without this evidence, these alleged statements are hearsay, for which there is no exception for their introduction. Fed. R. Evid., 802 and 803.

Dated: September 25, 2005

RESPECTFULLY SUBMITTED
FOR DEFENDANTS
BY THEIR ATTORNEY

/s/ Scott F. Gleason

Scott F. Gleason, Esquire
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CERTIFICATE OF SERVICE

I, Scott F. Gleason, Esquire, do hereby certify that I have this date filed a copy of the within Motion In Limine (Alleged Admission of Shaun Todd) to Donald L. Cabell, Assistant U.S. Attorney at the United States District Court, Boston, MA by electronic filing.

Dated: September 25, 2005

/s/ Scott F. Gleason

Scott F. Gleason, Esquire